

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

Maguire
GGM

FILE: B-220148

DATE: June 6, 1986

MATTER OF: Internal Revenue Service Installation of
Telephone Equipment in Employee Residences.

DIGEST:

Use of appropriated funds by the Internal Revenue Service (IRS) to install certain telephone equipment in the residences of IRS customer "assistors" does not violate the prohibition of 31 U.S.C. § 1348(a)(1) (1982). GAO has recognized the inapplicability of the prohibition when the telephone service is one of limited use or it is a service involving numerous safeguards and the separate service is essential. Equipment to be installed in the residences of IRS customer "assistors" has no outcall capability and can receive calls only from IRS switching equipment, making abuse of the system virtually impossible. Also, an employee's personal telephone cannot be used with the IRS system, making installation of a separate line essential.

This decision is in response to a request from Mr. John L. Wedick, Jr., Assistant Commissioner (Planning, Finance, and Research) of the Internal Revenue Service (IRS). Assistant Commissioner Wedick requests a decision regarding the propriety of the use of appropriated funds to install telephones connected to a centralized switching system in the residences of IRS customer "assistors." For the reasons set forth below, we conclude that the installation of the telephone equipment in question would be proper.

The IRS customer "assistors," in whose residences the equipment in question is to be installed, are intermittent, part-time employees without set work hours, who respond to telephone inquiries from taxpayers seeking tax assistance. The proposal would require the installation of special switching equipment described by the IRS as follows:

"A necessary part of the assistor's equipment is a 'Collins answering position' connected to a centralized switching system which feeds the assistor telephone calls.

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Although such equipment necessitates telephone installation, the equipment itself is only capable of functioning when connected to the Collins answering system. It has no out-call capability; moreover, the only calls which can be received are calls which overflow from the district offices and are distributed to the satellite systems on a strictly random basis, making it impossible for an employee to use the installed system to place or receive calls of a personal or non-official nature."

Background: The use of appropriated funds to install telephones in private residences is prohibited by 31 U.S.C. § 1348(a)(1) (1982):

"Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences."

This statute generally constitutes a mandatory prohibition against the use of appropriated funds to pay any part of the expense of furnishing telephone service to an employee in a private residence, without regard to the desirability of such service from an official standpoint. See, e.g. 35 Comp. Gen. 28 (1956); 15 Comp. Gen. 885 (1936). We have invoked the statutory prohibition even when the employees who would use the telephone service had no office out of which they could work and were required to work out of their homes. B-130288, February 27, 1957. See also 26 Comp. Gen. 668 (1947). In a recent decision, we held that the statutory prohibition applied even when the volume of Government business effectively precluded the employee's family from using his personal telephone. 59 Comp. Gen. 723 (1980).

Nonetheless, although generally the statute has been strictly applied, there have been instances in which we have determined that the prohibition was not applicable. We have recognized the inapplicability of the statutory prohibition when the telephone service is one of limited use or it is a service involving numerous safeguards and the separate

service is essential. See e.g., 32 Comp. Gen. 431 (1953) (installation of a special telephone in the residence of the Pearl Harbor fire marshall); B-128114, June 29, 1956 (installation of direct telephone lines from an Air Force command post to residences of high officials).

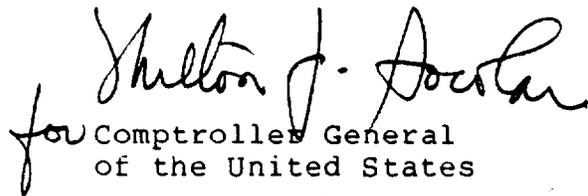
In 61 Comp. Gen. 214 (1982), we approved the installation of Federal Secure Telephone Services (FSTS) in the residences of certain high level civilian and military officials to ensure secure communications in matters involving national security. The FSTS had several unique features which supported our holding. The telephone required a special key and could be programmed to respond only to a user code. The agency head was to certify that the telephones were to be used for official business only and the system was subject to audit to ensure that only official business was transacted. Finally, the system was to be installed in the residences of relatively few officials whose status would minimize the likelihood of abuse. In concluding that the statutory prohibition was not applicable to the installation of FSTS, we distinguished several previous cases in which the prohibition has been strictly applied:

"The cited cases, however, including 59 Comp. Gen. 723, supra, are distinguishable from the proposal under consideration here. In the first place, no provisions were made in those cases to assure that private calls would not be made since the telephones to be installed in private residences were no different than those normally installed for private use. In this case, access and use will be controlled. Secondly, the telephones in the cited cases, while desirable from an official standpoint, were, in essence, to serve as a convenience for the Government officials involved. This is because official calls to and from the officials' residences could have been placed and received, if necessary, from their private telephones, even though this might have caused some personal inconvenience. Here, the official calls to or from private residences could not be made over private telephones because of the need for security."

Analysis: We conclude that the telephone equipment to be installed in the residences of the IRS "assistors" meets the criteria set forth in 61 Comp. Gen. 214, above, and constitutes the installation of essential telephone service

of limited use and involving numerous safeguards. Because of the special character of the equipment to be installed, the possibility of abuse is minimal. The system has no outcall capability and all incoming calls are through the IRS switching system, making it impossible for an employee to use the system for non-official purposes. This same technical electronic exclusivity makes it impossible to utilize the employee's own telephone to perform the IRS service.

Accordingly, we conclude that the use of appropriated funds to install telephone lines and equipment in the residences of IRS customer "assistors" in the circumstances described by Assistant Commissioner Wedick would be proper.


for Comptroller General
of the United States